

**Housing Regulations**  
Regulation # R700-01: HC-4

**Chapter 4. Rent Payments, Collection and Eviction Procedures for Low Income Elder and Tribally Owned Rental Homes**

**Section 1. Authority; Purpose**

1-1. *Authority.* In accordance with Sections 6.01 (a) and (c) and 6.02 (b) of the Housing Commission Ordinance, # 04-700-01, the Housing Commission hereby promulgates these regulations for rent payments, collection and eviction procedures for low income elder and tribally owned rental homes.

1-2. *Purpose.* The purpose of this Chapter is to establish procedures for the collection of rent's payments from individuals or families renting homes through the Tribe's Housing Department and to establish a comprehensive statement of policy and actions, including eviction as a remedy of last resort, which will be taken to enforce the payment of rent's payments.

These regulations are designed to serve as:

- a. A policy for the Housing Department to use in collecting rents.
- b. A document that provides for consistent, equitable, and uniform treatment of clients.
- c. A basis for decision-making by Housing Department staff.
- d. A training manual for newly-hired or appointed staff.

1-3. *Application.* These regulations are applicable to all renters participating in the following Housing Department programs:

- a. Elder Units Housing at Aki maadiziwin
- b. Tribally owned rental units.

**Section 2. Definitions**

2-1. *General.* For purposes of this regulation, certain terms are defined in this section. The word "shall" is always mandatory and not merely advisory. Unless defined elsewhere, terms defined in Chapter 1 and the Housing Commission Ordinance are considered as defined therein for purposes of this Chapter.

**Section 3. Requirements and Procedures**

3-1. *Amount of Required Monthly Payment.* The amount of required rent payment will be determined at the initial admission and occupancy as stipulated in the lease agreement. Elder Units Houses at Aki maadiziwin are rented on an income base subsidy. Tribally owned rental units are rented at market value.

3-2. *Other Charges.* Additional charges other than the rent payments may be required as follow:

- a. Charges for damages caused to the rental unit, property grounds or its furnishings
- b. Agreed upon repayments of past delinquency accounts
- c. Other charges as specified in the Lease Agreement, or in Chapters 2 and 3, or in any other regulation adopted by the Tribe.

3-3. *Due Date for Rent and Other Charges.* All rent or other charges for the current month shall

be paid on or before the 15<sup>th</sup> day of each month without billing/prior notice. Payments not received on or before this date will be considered delinquent, unless the tenant has entered into a written Payment Agreement with the Housing Department to pay the amount due at a later date.

*3-4 Payment Agreements.* If a tenant is unable to make his payment for current rent or other charges when due, the tenant may request an extension from the Housing Department Director. Extensions shall be authorized and documented by execution of a “Payment Agreement” between the tenant and the Tribe duly represented by the Housing Department Director as per the following procedures:

- a. Payment Agreements may include provisions allowing delayed payment or rent or other charges. Payment Agreements must include a schedule for repayment of any amounts that are delinquent. Participants are encouraged, and may be required, to agree to have direct payments made to the Housing Department in the form of wage assignments, within the limits allowed by the law, social services payments, interest payments, etc.
- b. The Tribe, duly represented by the Housing Director, will approve the first request for Payment Agreement in situations of unusual temporary financial hardship. A subsequent request for a Payment Agreement will be approved only if an unusual temporary financial hardship is proven and the payment records of the tenant during the preceding 6 months, or length of tenancy if less than 6 months, shows no delinquency payments, and no Payment Agreement has been executed during the prior year, or length of tenancy if less than one year. For purposes of this paragraph, circumstances that warrant approval due to unusual temporary financial hardship include, but are not limited to, the following:
  1. Unusual and unexpected family expenses, such as a death in the family or high medical expenses not covered by insurance. The term “unusual and unexpected family expenses” do not include higher than usual normal expenses such as grocery bills, utility bills or store bills;
  2. Sudden loss of income.
- c. If a tenant continues to fall further behind in rent or other charges, even with the relief provided under a Payment Agreement, the Director will determine whether the family is capable of adhering to any form of payment agreements. If a tenant is able to pay current charges, but is unable to pay past balances, the Director may authorize entering into a new Agreement. The new Payment Agreement may include a reduction in the amount of repayment required each month to repay the balance due, but the Director must require some repayment of the balance each month.
- d. If the Director denies a tenant’s request to enter into, or renegotiate, a Payment Agreement, the tenant may appeal the decision to the Housing Commission according to *Article VI, Section 6.03 (a)(1) of the Housing Ordinance*.

- e. Payment Agreements are binding and must be honored by the tenant. Tenants who fail to make good faith efforts to comply with the terms of a Payment Agreement may forfeit their right to obtain time to cure a delinquency. A Notice of Termination will be issued and eviction proceedings instituted, if the Director determines that a tenant has failed to make good faith efforts to honor his obligations under a Payment Agreement.

#### **Section 4. Delinquent Accounts**

4-1. *Notice of Delinquency.* All tenant accounts will be reviewed by the Director. If a tenant is still delinquent on the twentieth-fifth (25<sup>th</sup>) day of the month, a “Notice of Delinquency” will be sent to the tenant by the Director. The Notice of Delinquency will state the following:

- a. The type of charge (rent, other charges) that is delinquent;
- b. The date the rent or other charges were due;
- c. The amount of rent or other charges the tenant is in arrears;
- d. A statement that asks the tenant to pay the arrearage upon receipt.
- e. If payment cannot be made upon receipt, notice that the tenant must, within seven (7) days of the date of the Notice, contact the Housing Department to discuss the situation and make arrangements to correct the delinquency.

4-2 *Second Notice of Delinquency.* If within ten (10) days after the date of the Notice of Delinquency, a tenant refuses or fails to respond to the Notice of Delinquency or if the tenant refuses or fails to either (a) repay the delinquent amount; or (b) execute a Payment Agreement, the Director or any Housing Department Administrative Assistant duly appointed to that effect, shall hand deliver, or send by first class mail, a “Second Notice of Delinquency” to the tenant.

The Second Notice of Delinquency will state the following:

- a. The type of charge (rent, other charges) that is delinquent;
- b. The date the rent or other charges were due;
- c. The amount of rent or other charges the tenant is in arrears, including any additional amounts that have become delinquent since the first Notice of Delinquency was sent;
- d. A statement that asks the tenant to pay the arrearage upon receipt.
- e. Notice that the tenant must pay the arrears or execute a Payment Agreement within ten (10) days of the date of the Second Notice to avoid the need for institution of eviction proceedings by the Housing Department.

4-3 *Notice of Termination.* If within ten (10) days after the date of the Second Notice of Delinquency, a tenant refuses or fails to respond to the Notice or fails to either (a) pay the delinquent account; or (b) execute a Payment Agreement, the Director or any Housing Department Administrative Assistant duly appointed to that effect, shall hand deliver, or send by certified mail a “Notice of Termination” to the tenant.

The Notice of Termination shall notify the tenant that he has thirty (30) days to either: (a) meet with the Director and explain his actions and work out a repayment plan; or (b) vacate the premises. The Notice of Termination shall state the following:

- a. The type of charge (rent, other charges) that is delinquent;
- b. The date the rent or other charges were due;
- c. The total amount of rent or other charges the tenant is in arrears, including any additional amounts that have become delinquent since the first and Second Notice of Delinquency were sent;
- d. Notice that the tenant must pay the rent or other charges in arrears upon receipt, or that he should schedule a meeting with the Director within the period of time stated above, or that he should vacate the premises upon expiration of the 30 days from the date of the Notice of Termination in order to avoid eviction proceedings.

## **Section 5. Unlawful Detainer Proceedings**

5-1. *Obligation to Vacate the Premises.* Any tenant who has received all of the notices above and has failed to:

- a. Pay the amount of his arrearage in full;
- b. Comply with the terms of his Payment Agreement; or
- c. Execute a Payment Agreement with the Director

must vacate the premises rented from the Tribe within 30 days after receiving a Notice of Termination.

5-2. *Court Proceedings.* If a tenant fails to vacate the premises within 30 days provided, the Tribe shall commence unlawful detainer proceedings against that tenant before the Tribal Court.

Once a complaint for unlawful detainer proceedings has been filed with the Court, the Tribe will agree to file a motion to dismiss those proceedings only if one of the following occurs:

- a. The tenant pays the entire amount of rent or other charges owed; or
- b. The tenant enters into a Payment Agreement with the Director, which includes assignment of the maximum percentage of wages allowed by the law or any other certain regular income due to the tenant.

5-3. *Eviction Procedure.* If after notice and hearing, the Tribal Court enters an order evicting the tenant from the premises, the Tribe shall be entitled to request the assistance of the Tribe's Public Safety Department in executing the order and evicting the tenant.

## **Section 6. Leaving with a Delinquency**

6-1. *Effect of Leaving with a Delinquency.* If a tenant voluntarily vacates or is evicted from a unit without paying all amounts due to the Tribe, the tenant shall be ineligible to receive any further assistance from the Tribe until the amount due is paid in full. The Director may grant a waiver to a former tenant, which allows him to participate in Housing Department programs, provided that the former tenant makes arrangements to pay back the amount owed.

6-2. *Collection of Delinquency.* The fact that a tenant vacates or is evicted from a rental unit with amounts still owed to the Tribe, does free the former tenant of his responsibility to pay the amount owed in full. Upon the tenant vacating or being evicted from the rental unit, his account

will be reconciled to reflect outstanding rents or other charges due to the Tribe, the cost of any damages to the rental unit, and any other charges to be assessed against the former tenant.

The Tribe may attempt to collect amounts owed on delinquent accounts using any lawful method, including, but not limited to personal telephone calls, mailing, and referral of the delinquent account to a collection agency or filing judicial collection procedures.

## **Section 7. Security Deposits**

*7-1. Security Deposits Required.* A security deposit is required by each applicant selected for a rental unit. Such deposit shall be paid under the terms of the lease, but shall not exceed one month's rent, as stated in Chapter 3, Section 4 (s) of this Regulation.

Each security deposit will be deposited in an interest-bearing account established by the Housing Department for this purpose. The obligation to reimburse the security deposit does not encompass the interests earned on such deposits. The interests earned on such deposits will be transferred on an annual basis to the Rental Income line item of the Housing Department's budget for the following year.

*7-2 Limitations on Use of Security Deposit.* Security deposit funds may be used only to reimburse the landlord for actual damages not reasonably expected in the normal course of habitation and/or to pay the landlord for rent in arrearage, rent due for the premature termination of the rental agreement, and for utility bills not paid by the tenant. Security deposits may not be applied toward the payment of rent or other charges while the tenant occupies the rental unit. The security deposit may not serve as the last month's rent.

*7-3. Reimbursement of Security Deposit.* Within thirty (30) days after a tenant vacates the rental unit, the Housing Department will forward the tenant an accounting of his security deposit account, together with a check for the amount of the security deposit refund, if any, and, if applicable, an itemized bill for any amounts still due to the Tribe.

The notice of damages must include the following statement in 12 point boldface type:

**“YOU MUST RESPOND TO THIS NOTICE BY MAIL WITHIN 7 DAYS AFTER RECEIPT OF THE SAME OTHERWISE YOU WILL FORFEIT THE AMOUNT CLAIMED FOR DAMAGES.”**

If the Tribe fails to submit to the tenant the above list of damages in the time and manner stated above, it is presumed that no damages are due and the Tribe shall refund the entire amount of the security deposit. Upon tenants' dispute of charges, the Tribe has 45 days from the time the occupancy ended, to file in Tribal Court a suit against the tenant in order to keep the disputed money to cover the alleged damages. The security deposit is considered the tenant's property until the Tribe obtains a money judgment from the court for the disputed amount. Failure of the Tribe to bring suit within the 45-day term above constitutes a waiver of all claimed damages, and the Tribe is liable for the full amount of the security deposit to the tenant.

## **Section 8. Charges to Tenants**

8-1. *Damages to Rental Unit.* Tenants will be required at their own expense, to repair damages to rental homes if a Housing Department inspection finds that the damage appears to have been deliberate or could have been avoided. The Housing Department shall notify tenants in writing of any repairs it determines the tenant is responsible for, which includes a specific description of the item(s) to be repaired, the procedures for obtaining approval of repairs and the time period within which those repairs must be completed.

If the tenant fails to properly complete the necessary repairs, or pay the cost of completing those repairs, the Housing Department may make arrangements to complete or pay the cost of those repairs and charge the tenant for the cost. The Director may allow tenants a period of time to complete repayment of repair costs, if warranted.

If the tenant fails to pay repair costs properly charged, the Tribe may institute termination procedures as established in this Chapter.

8-2 *Other Charges.* Other charges, such as for example, the cost of towing of junk cars, pet control and street light replacement, that may be incurred by tenants will be collected in the same manner described in 8-1 above.

## **Section 9. Automatic Payments and Payments in Advance**

9-1. *Automatic Payments.* The Housing Department offers the option to receive automatic electronic payments. To that effect the Housing Department will cooperate with tenants to make arrangements with tenants' employer or source of income to automatically deduct rent from his paycheck.

9-2. *Payments in Advance.* The Housing Department will accept advance payments for the entire period of the rent or for periods of time longer than one monthly period. The Housing Department will issue the tenant a receipt stating the total amount received and the rental period covered by such payment. Also, the receipt will include any additional charges the tenant may be subject to or any credit balance he may be entitled to as a consequence of changes that may have taken place in the rent charges structure during the time covered by the advance payment.

## **Section 10. Past Delinquencies**

10-1. *Delinquencies at the time this Chapter enters into Effect.* Any tenant who is delinquent as of the date this Chapter is adopted shall have sixty (60) days to either pay any delinquent amount or enter into a Payment Agreement with the Director in accordance with Section 3, 3-4 of this Chapter.

If the tenant fails to bring his up-to-date account and/or to execute a Payment Agreement the Director will institute the collection and eviction procedures as stated in this Chapter.

## **Section 11. Grievances**

11-1. *Right to Appeal.* If a tenant disagrees with any action or decision of the Director or an enforcement measure of a Housing Department' staff, he may make an appeal as provided for in

Article VI, Section 6, Paragraph 6.03 of the Housing Commission Ordinance.

11-2. *Duty to Pay Rent while Appeal is Pending.* In no case may a tenant withhold rent or payment of other charges while his appeal's decision is pending. If the appeal refers to disputed rent or other charges, the tenant's payments will be kept on a separate account until the appeal is decided.

If a tenant fails to pay rent or other charges while awaiting a decision on an appeal, the tenant will lose his right to continue with the appeal.

## **Section 12. Illegal Drug Activities**

12-1 *Prohibition of Illegal Drug Activities.* As per Chapter 3, Section 4, 4-5 (o), any conviction, including "no contest" pleas, for a drug related criminal activity shall be grounds for immediate termination of the lease agreement. The Tribe is authorized to commence immediate proceedings to evict that tenant in accordance with this Chapter.

## **Section 13. Adoption; Amendment; Repeal**

13-1. *Adoption.* This Chapter is approved by the Housing Commission by Resolution No. HC 04-1216-03 on December 16, 2004 and approved by the Tribal Council on \_\_\_\_\_.

13-2. *Amendment.* This regulation may be amended by the Housing Commission in accordance with the Constitution and any rules set forth governing amendment of regulation of the Little River Band of Ottawa Indians. Provided that, any amendments must be approved or adopted in the same manner as set forth in section 13-1.

13-3. *Severability Clause.* If any provision of this regulation or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this regulation which can be given effect without the invalid provision or application, and to this end the provisions of this regulation are severable.

13-4. *Compliance.* In regards to compliance with this regulation, substantial compliance with the 'spirit' of this regulation rather than complete compliance is acceptable.

13-5. *Sovereign Immunity.* Nothing in this Regulation shall provide or be interpreted to provide a waiver of sovereign immunity from suit of the Tribe or any of its governmental officers and/or agents.

13-6. *Effective Date.* This Regulation shall take effect on the date of approval by Tribal Council.